IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 22612 of 2007(P)

PETITIONER:

K.S.JOSE @ PAPACHAN,
KUDIYIRIPPIL HOUSE,
MATTOOR, MAROTHICHODU,
KALADY.

BY ADV. SRI.K.V.SOHAN
SRI.JIJO JOSEPH

RESPONDENTS:

THE ASSISTANT ENGINEER,
IRRIGATION SECTION,
ANGAMALY.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No. 22612 of 2007

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Dated this the 25th day of July, 2007

J U D G M E N T

The petitioner challenges Ext.P1 order by which the petitioner has been directed to vacate the properties mentioned therein within 3 days. The contention of the petitioner is that he is not occupying any Government land and the land in question belongs absolutely to the petitioner. The petitioner further submits that Ext.P1 has been issued without affording an opportunity of being heard to the petitioner.

2. I have heard the learned Government Pleader also.

3. The Government Pleader could not satisfy me that Ext.P1 was preceded by any notice or hearing. Ext.P1 also does not contain any reasons as to why the emergency provisions of the Kerala Land Conservancy Act and Rules should be invoked. In the above circumstances, I am satisfied that Ext.P1 has been issued in violation of the principles of natural justice and the

provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P1 is treated as a show-cause notice, it is not necessary to quash the same. Accordingly, I dispose of this writ petition with the following directions:

The petitioner has already filed Ext.P2 objections to Ext.P1. The respondents shall treat Ext.P1 as show-cause notice and Ext.P2 as the reply to the same. The respondents shall afford an opportunity of being heard to the petitioner, which shall include opportunity to adduce evidence also. Thereafter the respondents shall pass a speaking order dealing with the contentions of the petitioner on the basis of the evidence to be adduced by the petitioner. Till 7 days after communication of the order to be passed to the petitioner, the petitioner shall not be evicted from the property in question.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.